

SENATE, No. 2451

[Senate, May 24, 2010 - New draft of Senate, No. 2411 reported from the committee on State Administration and Regulatory Oversight.]



The Commonwealth of Massachusetts

IN THE YEAR OF TWO THOUSAND AND TEN

AN ACT AUTHORIZING THE DEPARTMENT OF FISH AND GAME TO ACQUIRE LAND OF THE TOWN OF ATHOL AND TO ACQUIRE A CONSERVATION RESTRICTION ON LANDS OF THE TOWN OF ATHOL IN EXCHANGE FOR GRANTS OF EASEMENTS TO THE TOWN OF ATHOL.

Whereas, The deferred operation for this act would tend to defeat its purpose, which is forthwith to authorize the department of fish and game to acquire land of the town of Athol and to acquire a conservation restriction on lands of the town of Athol in exchange for grants of easements to the town, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted by the Senate and House of Representatives in General Court assembled,

And by the authority of the same, as follows:

- 1 **SECTION 1.** The commonwealth, by and through the department of fish and game, may
- 2 take, under chapter 79 of the General Laws, or otherwise acquire, and the town of Athol may
- 3 convey all or portions of certain parcels of land identified in section 2 for the preservation and
- 4 protection of wildlife habitat, passive recreation, and consistent purposes. The parcels, if taken

5 and not otherwise acquired, shall be subject to any easement or lesser interest in land held by any
6 person or governmental agency, except for said town, that lawfully exists and is recorded in the
7 appropriate registry of deeds, unless the department of fish and game expressly takes the
8 easement or lesser interest through eminent domain under said chapter 79.

9 **SECTION 2.** The parcels of land, including lands under water, to be acquired from the
10 town of Athol are identified as follows:

11 Land in the towns of Athol and Phillipston, Worcester County, Massachusetts, including
12 lands under water, located along South Royalston Road, Cobb Hill Road, Willis Road,
13 Schoolhouse Road and State Route 2A associated with Thousand Acre Reservoir, Thousand
14 Acre Brook and its watershed, described in deeds to the town of Athol recorded at the Worcester
15 District Registry of Deeds at Book 1981, Page 401; Book 2077, Page 117; Book 2338, Page 177;
16 Book 2283, Page 136; Book 2123, Page 368; Book 3530, Page 442; Book 1947, Page 283; Book
17 2145, Page 479; and Book 1836, Page 133 (parcels 13 and 14).

18 **SECTION 3.** The commonwealth, by and through the department of fish and game, may
19 convey to the town of Athol easements or lesser interests for the purpose of installing and
20 maintaining water mains across all or portions of a certain parcel of land of said commonwealth
21 identified in section 4.

22 **SECTION 4.** The parcel of land to be subject to the water main easements is identified
23 as follows:

24 Land in Athol, Worcester County, Massachusetts described in deed to the commonwealth
25 recorded at the Worcester District Registry of Deeds at Book 14525, Page 380 and shown on
26 Plan entitled “Plan of Land in Athol owned by Lois E. Lawrence” recorded at said registry at
27 Plan Book 407, Plan 8.

28 **SECTION 5.** The commonwealth, by and through the department of fish and game, may
29 convey to the town of Athol easements or lesser interests for the purpose of drinking water
30 supply wellhead protection over all or portions of a certain parcel of land of said commonwealth
31 identified in section 6.

32 **SECTION 6.** The parcel of land to be subject to the wellhead protection easements is
33 identified as follows:

34 Land in Athol, Worcester County, Massachusetts, described in deed to the
35 commonwealth recorded at the Worcester District Registry of Deeds at Book 16041, Page 160
36 and shown on Plan entitled “Plan of Land in Athol, Massachusetts prepared for Mount Grace
37 Land Conservation Trust, Inc.” recorded at said registry at Plan Book 670, Plan 86.

38 **SECTION 7.** The commonwealth, by and through the department of fish and game, may
39 convey to the town of Athol easements or lesser interests for the purpose of constructing,
40 maintaining, and using a bicycle path across all or portions of a certain parcel of land of said
41 commonwealth identified in section 8.

42 **SECTION 8.** The parcel of land to be subject to the bicycle path easements is identified
43 as follows:

44 Land in Athol, Worcester County, Massachusetts described in deed to the commonwealth
45 recorded at the Worcester District Registry of Deeds at Book 16041, Page 160 (parcel III).

46 **SECTION 9.** In consideration for the conveyance described in sections 3-8 herein, the
47 commonwealth, by and through the department of fish and game, may take, under chapter 79 of
48 the General Laws, or otherwise acquire, and the town of Athol may convey, easements or lesser
49 interests through a conservation restriction under sections 31, 32, and 33 of chapter 184 of the
50 General Laws, for the preservation and protection of wildlife habitat and passive recreation and

51 consistent purposes, in all or portions of certain parcels of land identified in section 10. The
52 parcels were acquired by the town of Athol for water supply purposes. The conservation
53 restriction authorized by this act shall allow for the town to retain the right to use said premises
54 as a potential water supply for the town. Said conservation restriction, if taken and not otherwise
55 acquired, shall be subject to any easement or lesser interest in land held by any person or
56 governmental agency, except for said town, that lawfully exists and is recorded in the appropriate
57 registry of deeds, unless the department of fish and game expressly takes the easement or lesser
58 interest through eminent domain under said chapter 79.

59 **SECTION 10.** The parcels of land, including lands under water, to be subject to said
60 conservation restriction are identified as follows:

61 Land in Athol, Worcester County, Massachusetts, including lands under water, located
62 along South Royalston Road and Bearsden Road, associated with Newton Reservoir and its
63 watershed, described in deeds to the town of Athol recorded at the Worcester District Registry of
64 Deeds at Book 3543, Page 194; Book 1995, Page 600, and Book 1836, Page 133 (parcels 24, 25,
65 26, 27, 28, 29, and 30).

66 **SECTION 11.** Independent appraisals shall be prepared in accordance with executive
67 office of energy and environmental affairs appraisals specifications to determine the full and fair
68 value of the easements authorized in sections 3 through 10, inclusive. The authorization granted
69 in sections 3 through 10, inclusive, is contingent on the appraised value of the conservation
70 restriction described in sections 9 and 10 being equal to or greater than the appraised value of the
71 2 easements described in sections 3 through 8, inclusive, as determined by independent
72 appraisals. Said appraisals and easements shall be submitted to the inspector general for review
73 and comment. Within 15 days following submittal, the inspector general shall prepare a report

74 containing his review of the methodology used for the appraisals and his review of said
75 easements and shall file the report with the commissioner of the department of fish and game, the
76 house and senate committees on ways and means, and the joint committee on state
77 administration and regulatory oversight.

78 **SECTION 12.** Costs and expenses associated with the transactions authorized by this act
79 shall be apportioned as agreed by the town of Athol and the department of fish and game.

80 **SECTION 13.** This act shall take effect upon its passage.